

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EASTERN DIVISION

CIVIL ACTION NO. 04-11126MLW

SANDRA YOUNG, and ERIC K. SOUZA,)
P.P.A., By His Mother and Next Best Friend,)
)
V.)
)
SIX FLAGS, INC. and INTAMIN AG,)

**ANSWER, CROSSCLAIM, AND DEMAND FOR
TRIAL BY JURY OF DEFENDANT, SIX FLAGS, INC.**

Now come the defendant, Six Flags, Inc. ("Six Flags"), and by and through its attorneys,
hereby answer the plaintiffs' complaint as follows:

COUNT I – ACTION FOR NEGLIGENCE

THE PARTIES

1. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 1 of the plaintiffs' complaint.
2. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 2 of the plaintiffs' complaint.
3. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 3 of the plaintiffs' complaint.
4. The defendant admits the allegations contained in Paragraph 4 of the plaintiffs' complaint.
5. The defendant admits the allegations contained in Paragraph 5 of the plaintiffs' complaint.

6. The defendant admits the allegations contained in Paragraph 6 of the plaintiffs' complaint.

7. Paragraph 7 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

8. Paragraph 8 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

9. Paragraph 9 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

JURISDICTION AND VENUE

10. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 10 of the plaintiffs' complaint.

11. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 11 of the plaintiffs' complaint.

12. Paragraph 12 is a conclusion of law, therefore, the defendant is not required to answer the same.

13. The defendant admits the allegations contained in Paragraph 13 of the plaintiffs' complaint.

14. The defendant admits the allegations contained in Paragraph 14 of the plaintiffs' complaint.

15. Paragraph 15 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

16. Paragraph 16 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

17. Paragraph 17 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

18. Paragraph 18 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

19. Paragraph 19 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

20. Paragraph 20 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

21. The defendant admits the allegations contained in Paragraph 21 of the plaintiffs' complaint.

22. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 22 of the plaintiffs' complaint.

23. The defendant denies the allegations contained in Paragraph 23 of the plaintiffs' complaint.

24. The defendant denies the allegations contained in Paragraph 24 of the plaintiffs' complaint.

25. Paragraph 25 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

26. Paragraph 26 is a conclusion of law, therefore, the defendant is not required to answer the same.

27. Paragraph 27 is a conclusion of law, therefore, the defendant is not required to answer the same.

28. Paragraph 28 is a conclusion of law, therefore, the defendant is not required to answer the same.

29. Paragraph 29 is a conclusion of law, therefore, the defendant is not required to answer the same.

30. Paragraph 30 is a conclusion of law, therefore, the defendant is not required to answer the same.

31. Paragraph 31 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

32. Paragraph 32 is a conclusion of law, therefore, the defendant is not required to answer the same.

VENUE

33. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 33 of the plaintiffs' complaint.

34. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 34 of the plaintiffs' complaint.

35. Paragraph 35 is a conclusion of law, therefore, the defendant is not required to answer the same.

36. Paragraph 36 is a conclusion of law, therefore, the defendant is not required to answer the same.

THE ACTION

37. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 37 of the plaintiffs' complaint. In further answering,

the defendant states that to the extent that Paragraph 37 is a conclusion of law, it is not required to answer the same.

38. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 38 of the plaintiffs' complaint. In further answering, the defendant states that to the extent that Paragraph 38 is a conclusion of law, it is not required to answer the same.

39. The defendant is without sufficient knowledge or information to either admit or deny the allegations contained in Paragraph 39 of the plaintiffs' complaint. In further answering, the defendant states that to the extent that Paragraph 39 is a conclusion of law, it is not required to answer the same.

40. The defendant denies the allegations contained in Paragraph 40 of the plaintiffs' complaint.

41. The defendant denies the allegations contained in Paragraph 41 of the plaintiffs' complaint.

42. The defendant denies the allegations contained in Paragraph 42 of the plaintiffs' complaint.

43. The defendant denies the allegations contained in Paragraph 43 of the plaintiffs' complaint.

44. The defendant denies the allegations contained in Paragraph 44 of the plaintiffs' complaint.

45. The defendant denies the allegations contained in Paragraph 45 of the plaintiffs' complaint.

46. Paragraph 46 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

47. Paragraph 47 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

48. Paragraph 48 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

49. Paragraph 49 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

50. Paragraph 50 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

51. The defendant denies the allegations contained in Paragraph 51 of the plaintiffs' complaint.

52. The defendant denies the allegations contained in Paragraph 52 of the plaintiffs' complaint.

53. The defendant denies the allegations contained in Paragraph 53 of the plaintiffs' complaint.

54. The defendant denies the allegations contained in Paragraph 54 of the plaintiffs' complaint.

55. The defendant denies the allegations contained in Paragraph 55 of the plaintiffs' complaint.

56. Paragraph 56 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

57. Paragraph 57 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

58. Paragraph 58 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

59. Paragraph 59 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

60. Paragraph 60 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

61. The defendant denies the allegations contained in Paragraph 61 of the plaintiffs' complaint.

62. Paragraph 62 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

63. The defendant denies the allegations contained in Paragraph 63 of the plaintiffs' complaint.

64. Paragraph 64 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

65. The defendant denies the allegations contained in Paragraph 65 of the plaintiffs' complaint.

66. The defendant denies the allegations contained in Paragraph 66 of the plaintiffs' complaint.

67. The defendant denies the allegations contained in Paragraph 67 of the plaintiffs' complaint.

68. The defendant denies the allegations contained in Paragraph 68 of the plaintiffs' complaint.

69. The defendant denies the allegations contained in Paragraph 69 of the plaintiffs' complaint.

70. The defendant denies the allegations contained in Paragraph 70 of the plaintiffs' complaint.

71. The defendant denies the allegations contained in Paragraph 71 of the plaintiffs' complaint.

72. The defendant denies the allegations contained in Paragraph 72 of the plaintiffs' complaint.

73. The defendant denies the allegations contained in Paragraph 73 of the plaintiffs' complaint.

74. The defendant denies the allegations contained in Paragraph 74 of the plaintiffs' complaint.

75. The defendant denies the allegations contained in Paragraph 75 of the plaintiffs' complaint.

76. The defendant denies the allegations contained in Paragraph 76 of the plaintiffs' complaint.

77. The defendant denies the allegations contained in Paragraph 77 of the plaintiffs' complaint.

78. The defendant denies the allegations contained in Paragraph 78 of the plaintiffs' complaint.

79. The defendant denies the allegations contained in Paragraph 79 of the plaintiffs' complaint.

80. Paragraph 80 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

81. The defendant denies the allegations contained in Paragraph 81 of the plaintiffs' complaint.

82. The defendant denies the allegations contained in Paragraph 82 of the plaintiffs' complaint.

83. Paragraph 83 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT II
ACTION BASED UPON NEGLIGENT DESIGN

84. The defendant repeats and reavers its responses to Paragraph 1 through 83 of the plaintiffs' complaint as if fully set forth herein.

85. The defendant denies the allegations contained in Paragraph 85 of the plaintiffs' complaint.

86. Paragraph 86 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT III
ACTION BASED UPON NEGLIGENT CONSTRUCTION

87. The defendant repeats and reavers its responses to Paragraph 1 through 86 of the plaintiffs' complaint as if fully set forth herein.

88. The defendant denies the allegations contained in Paragraph 88 of the plaintiffs' complaint.

89. Paragraph 89 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT IV
ACTION BASED UPON NEGLIGENT OPERATION

90. The defendant repeats and reavers its responses to Paragraph 1 through 89 of the plaintiffs' complaint as if fully set forth herein.

91. The defendant denies the allegations contained in Paragraph 91 of the plaintiffs' complaint.

92. Paragraph 92 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT V
ACTION BASED UPON NEGLIGENT MAINTENANCE

93. The defendant repeats and reavers its responses to Paragraph 1 through 92 of the plaintiffs' complaint as if fully set forth herein.

94. The defendant denies the allegations contained in Paragraph 94 of the plaintiffs' complaint.

95. Paragraph 95 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT VI
ACTION BASED UPON NEGLIGENT INSPECTION

96. The defendant repeats and reavers its responses to Paragraph 1 through 95 of the plaintiffs' complaint as if fully set forth herein.

97. The defendant denies the allegations contained in Paragraph 97 of the plaintiffs' complaint.

98. Paragraph 98 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT VII
ACTION BASED UPON BREACH OF EXPRESSED WARRANTY

99. The defendant repeats and reavers its responses to Paragraph 1 through 98 of the plaintiffs' complaint as if fully set forth herein.

100. The defendant denies the allegations contained in Paragraph 100 of the plaintiffs' complaint.

101. Paragraph 101 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT VIII
ACTION BASED UPON BREACH OF WARRANTY BY ADVERTISEMENT

102. The defendant repeats and reavers its responses to Paragraph 1 through 101 of the plaintiffs' complaint as if fully set forth herein.

103. The defendant denies the allegations contained in Paragraph 103 of the plaintiffs' complaint.

104. Paragraph 104 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT IX
ACTION BASED UPON BREACH OF IMPLIED WARRANTIES

105. The defendant repeats and reavers its responses to Paragraph 1 through 104 of the plaintiffs' complaint as if fully set forth herein.

106. The defendant denies the allegations contained in Paragraph 106 of the plaintiffs' complaint.

107. Paragraph 107 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT X
ACTION BASED UPON BREACH OF WARRANTY OF SAFETY

108. The defendant repeats and reavers its responses to Paragraph 1 through 107 of the plaintiffs' complaint as if fully set forth herein.

109. The defendant denies the allegations contained in Paragraph 109 of the plaintiffs' complaint.

110. Paragraph 110 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT XI
ACTION BASED UPON BREACH OF WARRANTY
FOR FITNESS FOR A PARTICULAR PURPOSE

111. The defendant repeats and reavers its responses to Paragraph 1 through 110 of the plaintiffs' complaint as if fully set forth herein.

112. The defendant denies the allegations contained in Paragraph 112 of the plaintiffs' complaint.

113. Paragraph 113 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT XII
ACTION BASED UPON BREACH OF WARRANTY OF MERCHANTABILITY

114. The defendant repeats and reavers its responses to Paragraph 1 through 113 of the plaintiffs' complaint as if fully set forth herein.

115. The defendant denies the allegations contained in Paragraph 115 of the plaintiffs' complaint.

116. Paragraph 116 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT XIII
ACTION BASED UPON VIOLATION OF STATUTE

117. The defendant repeats and reavers its responses to Paragraph 1 through 116 of the plaintiffs' complaint as if fully set forth herein.

118. The defendant denies the allegations contained in Paragraph 118 of the plaintiffs' complaint.

119. Paragraph 119 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT XIV
ACTION BASED UPON VIOLATION OF SAFETY REGULATIONS

120. The defendant repeats and reavers its responses to Paragraph 1 through 119 of the plaintiffs' complaint as if fully set forth herein.

121. The defendant denies the allegations contained in Paragraph 121 of the plaintiffs' complaint.

122. Paragraph 122 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT XV
ACTION BASED UPON STRICT LIABILITY

123. The defendant repeats and reavers its responses to Paragraph 1 through 122 of the plaintiffs' complaint as if fully set forth herein.

124. The defendant denies the allegations contained in Paragraph 124 of the plaintiffs' complaint.

125. The defendant denies the allegations contained in Paragraph 125 of the plaintiffs' complaint.

126. Paragraph 126 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT XVI
ACTION BASED UPON RES IPSA LOQUITUR

127. The defendant repeats and reavers its responses to Paragraph 1 through 126 of the plaintiffs' complaint as if fully set forth herein.

128. The defendant denies the allegations contained in Paragraph 128 of the plaintiffs' complaint.

129. The defendant denies the allegations contained in Paragraph 129 of the plaintiffs' complaint.

130. The defendant denies the allegations contained in Paragraph 130 of the plaintiffs' complaint.

131. The defendant denies the allegations contained in Paragraph 131 of the plaintiffs' complaint.

132. Paragraph 132 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

COUNT XVII
ACTION FOR PUNITIVE DAMAGES

133. The defendant repeats and reavers its responses to Paragraph 1 through 130 of the plaintiffs' complaint as if fully set forth herein.

134. The defendant denies the allegations contained in Paragraph 134 of the plaintiffs' complaint.

135. Paragraph 135 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

136. The defendant denies the allegations contained in Paragraph 136 of the plaintiffs' complaint.

COUNT XVIII
ACTION BY ERIC K. SOUZA, P.P.A.

137. The defendant repeats and reavers its responses to Paragraph 1 through 133 of the plaintiffs' complaint as if fully set forth herein.

138. The defendant denies the allegations contained in Paragraph 138 of the plaintiffs' complaint.

139. Paragraph 139 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

140. The defendant denies the allegations contained in Paragraph 140 of the plaintiffs' complaint.

141. Paragraph 141 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

142. The defendant denies the allegations contained in Paragraph 142 of the plaintiffs' complaint.

143. Paragraph 143 of the plaintiffs' complaint is directed at a party other than this defendant and needs not be admitted or denied.

SEPARATE DEFENSES

FIRST AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that the plaintiffs' complaint fails to state a claim upon which relief can be granted and must be dismissed.

SECOND AFFIRMATIVE DEFENSE

There is an insufficiency of service of process upon the defendant.

THIRD AFFIRMATIVE DEFENSE

This Court lacks subject matter jurisdiction over each and every count contained in plaintiffs' complaint.

FOURTH AFFIRMATIVE DEFENSE

This Court lacks personal jurisdiction over the defendant with respect to each and every count contained in plaintiffs' complaint.

FIFTH AFFIRMATIVE DEFENSE

The causes of action alleged in plaintiffs' complaint are barred by any applicable statutes of limitations and/or statutes of repose.

SIXTH AFFIRMATIVE DEFENSE

The plaintiffs have failed to join a party or parties necessary for a just adjudication of this matter and have further omitted to state any reasons for such failure.

SEVENTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant says that if the plaintiff suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct the defendant was not and is not legally responsible.

EIGHTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that the negligence of the plaintiff, Sandra Young, was greater than the alleged negligence of defendant and that such negligence of the plaintiff, Sandra Young, contributed to her alleged injury, and, therefore, the plaintiffs are barred from recovery under M.G.L., Ch. 231, Sec. 85.

NINTH AFFIRMATIVE DEFENSE

The plaintiffs' claims are barred because the injuries and damages which the plaintiffs allegedly suffered was caused by an intervening or superseding cause or negligence of other persons, their acts or omissions or entities for whose conduct the defendant is not legally responsible.

TENTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that it is without legal responsibility for the injuries sustained by the plaintiffs.

ELEVENTH AFFIRMATIVE DEFENSE

The plaintiffs' complaint is barred because of insufficiency of process.

TWELFTH AFFIRMATIVE DEFENSE

The plaintiffs' claims are barred by estoppel.

FOURTEENTH AFFIRMATIVE DEFENSE

The plaintiffs' claims are barred by operation of law.

FIFTEENTH AFFIRMATIVE DEFENSE

The warranties claimed did not arise under contract or agreement or circumstances alleged in the plaintiffs' complaint.

SIXTEENTH AFFIRMATIVE DEFENSE

The defendant was not given proper notice of the alleged breaches of warranties as required by law and, therefore, were prejudiced.

SEVENTEENTH AFFIRMATIVE DEFENSE

Some or all of the claims set forth in the plaintiffs' complaint are barred by virtue of the plaintiffs' failure to mitigate their damages.

EIGHTEENTH AFFIRMATIVE DEFENSE

The plaintiffs' claims are barred by the doctrines of waiver and/or release.

NINETEENTH AFFIRMATIVE DEFENSE

The plaintiffs' claims are barred by a valid and enforceable release of any claims against the defendant.

TWENTIETH AFFIRMATIVE DEFENSE

There was no privity of contract between the defendant and the plaintiffs and the plaintiffs may not recover upon any alleged breach of any express or implied warranty.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The plaintiffs' claims based upon the allegations of express or implied warranty are barred because no sale of goods occurred.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The defendant says that Sandra Young was not a purchaser within the meaning of M.G.L. c. 231, §85J, that the defendant did not make any sale to her, and that it did not make any sale by fraud or deceit.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The plaintiffs never, prior to the filing of this complaint, informed the defendant, by notification or otherwise, of any breach of express and/or implied warranties. The plaintiffs failed to give reasonable notice of the alleged breach of warranties within a reasonable time as required by law, pursuant to M.G.L. c. 106, §2-607. Consequently, the plaintiffs' claims for alleged breach of warranties against the defendant are barred.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

No warranty of any kind was extended to the plaintiff, Sandra Young, in this matter.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

The defendant never made any affirmation of fact, representation or conducted itself in any manner so as to constitute an express or implied warranty as stated in the plaintiffs' complaint.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

The defendant denies that it or its agents or servants made any express warranties as alleged.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

The defendant says that if any of its agents or servants made any warranties, express or implied (allegations which the defendant specifically denies) then the defendant disclaimed all warranties with respect to the goods in question.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

The defendant says that if its agents or servants made any express warranties (allegations which the defendant specifically denies) then the agents or servants of the defendants did so without authority, express or implied.

TWENTY-NINTH AFFIRMATIVE DEFENSE

The defendant says that if it, its servants or agents made any express warranties (allegations which the defendant specifically denies) then the plaintiff, Sandra Young, did not rely on the express warranties and, further, there was no such reliance by any person or entity authorized to represent the plaintiff, Sandra Young.

THIRTIETH AFFIRMATIVE DEFENSE

The defendant says that if it, its agents or servants made any warranties express or implied (allegations which the defendant specifically denies) then the defendant denies that it breached any of the warranties.

THIRTY-FIRST AFFIRMATIVE DEFENSE

There is an absence of privity between the defendant and the plaintiff, Sandra Young, thereby precluding the attachment of an express or implied warranty.

THIRTY-SECOND AFFIRMATIVE DEFENSE

The defendant says that if it were liable, negligent or in breach of warranty, all of which it expressly denies, the defendant's liability in any or all of those events has been terminated by the intervening acts, omissions or negligence of others over whom the defendant had neither control, nor the right of control, and for whose conduct the defendant is not legally responsible.

THIRTY-THIRD AFFIRMATIVE DEFENSE

The plaintiffs' complaint fails to state a claim in express or implied warranty of merchantability or fitness for a particular purpose because no particular purpose is alleged as between the buyer and sellers so as to permit a cause of action by the plaintiff, Sandra Young.

WHEREFORE, the defendant demands that the complaint be dismissed and judgment entered in favor of the defendant with the costs and disbursements of this action.

CROSSCLAIM OF DEFENDANT, SIX FLAGS, INC.
AGAINST DEFENDANT, INTAMIN AG

The defendant, Six Flags, Inc., assert by way of crossclaim against the defendant, Intamin AG, the following:

COUNT I – CONTRIBUTION

1. The proximate cause of any injuries and damages to the plaintiffs, as alleged in their complaint, would be the negligence, carelessness, and breach of express and implied warranties of defendant, Intamin AG, in its design, manufacture, sale, distribution, installation, operation, and/or maintenance of the Superman Ride of Steel Rollercoaster.

2. In the event that the plaintiffs should recover any judgment against defendant, Six Flags, Inc., for damages for their alleged injuries sustained because of any negligence, carelessness, or breach of express and implied warranties on the part of defendant, Six Flags, Inc., then in that event defendant, Six Flags, Inc, as the crossclaim plaintiff will be entitled to judgment against defendant, Intamin AG, for contribution toward damages and costs awarded to said plaintiffs, as a result of defendant, Intamin AG, being a joint tortfeasor.

COUNT II – INDEMNIFICATION

1. The proximate cause of any injuries and damages to the plaintiffs, as alleged in their complaint, would be the negligence, carelessness, and breach of express and implied warranties of defendant, Intamin AG, in its design, manufacture, sale, distribution, installation, operation, and/or maintenance of the Superman Ride of Steel Rollercoaster.

2. In the event that the plaintiffs should recover any judgment against defendant, Six Flags, Inc., for damages for their alleged injuries sustained because of any negligence, carelessness, or breach of express and implied warranties on the part of defendant, Six Flags, Inc., then in that event defendant, Six Flags, Inc., as the crossclaim plaintiff will be entitled to judgment against defendant, Intamin AG, by way of an express and/or implied indemnity.

WHEREFORE, if the plaintiffs recover a judgment, it should be satisfied in whole or in part by defendant, Intamin AG.

JURY CLAIM

The defendant, Six Flags, Inc., demand a jury trial on all issues triable before a jury.

SIX FLAGS, INC.,

By its attorneys,

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/s/ John P. Graceffa

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